

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

LODI HOTEL INVESTORS,

Plaintiff,

vs.

MANUEL LUNA,

Defendants.

Case No.: 12-CV-4255 YGR

ORDER GRANTING MOTION TO REMAND AND REMANDING ACTION

15 This case was removed from the San Joaquin County Superior Court, where it was pending as
16 an unlawful detainer action against *pro se* Defendant Manuel Luna (“Defendant”). Defendant filed a
17 “Notice of Removal (Under Federal Question Jurisdiction) Provisions of Title 28 USC, Section
18 1331. 42 U.S.C. § 1983 Discrimination Civil Action for Deprivation of Rights” on August 13, 2012.
19 (Dkt. No. 1, Notice of Removal.) Defendant also filed a Motion for Leave to Proceed *in Forma*
20 *Pauperis.* (Dkt. No. 2.)

Defendant removed the action pursuant to 28 U.S.C. § 1441 and 1446, invoking this Court's federal question jurisdiction under 28 U.S.C. § 1331 on the basis that "Defendant strongly believes he has been discriminated [sic] and that the Plaintiff has violated federal law, by doing so. . . . The landlord is discriminating me [sic] because he doesn't like me." (*Id.* at ¶ 3.)

25 Plaintiff Lodi Hotel Investors, LP (“Plaintiff”) has filed a motion to remand on the grounds
26 that Defendant has failed to establish the existence of federal subject matter jurisdiction or any other
27 basis for federal jurisdiction. Defendant has filed no opposition to the motion as of the date of this
28 Order.

1 The Court **GRANTS** the motion for remand because no federal question is presented in this
2 action and **DENIES** the Motion to Proceed *in Forma Pauperis*.¹ The complaint asserts only one state
3 law claim for unlawful detainer. Thus, there is no federal question.

4 In addition, the amount in controversy does not meet the jurisdictional threshold of
5 \$75,000.00 for diversity jurisdiction, nor has Defendant established that there is diversity of
6 citizenship between the parties.

7 Accordingly, Plaintiff's Motion to Remand is **GRANTED**.

8 Plaintiff's request for an award of attorneys' fees is **DENIED**.

9 Defendant's Motion to Proceed *in Forma Pauperis* is **DENIED**.

10 The Clerk of the Court is directed to **REMAND** this action to the San Joaquin County Superior
11 Court.

12 This Order terminates Docket Nos. 2 & 5.

13 **IT IS SO ORDERED.**

14 Date: January 29, 2013



YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT COURT JUDGE

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¹ Pursuant to Federal Rule of Civil Procedure 78(b) and Civil Local Rule 7-1(b), the Court finds that this motion is appropriate for decision without oral argument.